

Fresno, California

March 20, 2007

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Blong Xiong	Acting Council President
	Henry Perea	Council President

Andy Souza, City Manager
James Sanchez, City Attorney
Becky Klisch, City Clerk
Cindy Bruer, Deputy City Clerk

Pastor Roy Lee of the Calvary Worship Center Church gave the invocation, and President Perea led the Pledge of Allegiance.

PROCLAMATION OF "MEDIATION WEEK" – COUNCILMEMBER WESTERLUND

Read and presented.

PRESENTATION OF CERTIFICATE OF APPRECIATION AND LIFE SAFETY AWARD CERTIFICATES – FIRE CHIEF BRUEGMAN

Certificates presented to Robert Allen, Finance Dept., Utility, Billing and Collection Division, Betty Andronicous and Margaret Anderson.

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APPROVE MINUTES OF MARCH 6 AND 13, 2007:

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the corrected minutes of March 6, 2007, hereby approved.

On motion of Councilmember Westerlund, seconded by Acting President Xiong, duly carried, RESOLVED, the minutes of March 13, 2007, approved as submitted.

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COUNCIL MEMBER REPORTS AND COMMENTS:

(1) Councilmember Westerlund thanked the Redevelopment Agency, the City of Fresno staff and the San Joaquin Valley Railroad on the completion of the installation of the concrete planking on Shields Avenue at Clovis Avenue, noting Cedar Avenue was in the process with Chestnut and Maple Avenues to follow. (2) Questioned the status of the process to amend the investment policy and City Manager Souza stated he would research the issue.

(1) Councilmember Dages stated he had two meetings in Southeast Fresno and questioned why representatives from the Police Department had not been present, Mr. Souza stated he would check into the matter. (2) Reminded Council of the 4th Annual Texas Hold-Em Celebrity Charity Poker Tournament would be held this Saturday, noting 80 people had signed up, stating every dollar from the tournament would go to charity and encouraged people to come.

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APPROVE AGENDA:

City Clerk Klisch stated there were changes involving two items scheduled on the upcoming hearing schedule one hearing set for March 27, 2007, at 2:45 p.m. was withdrawn, noting the Public Works Department would reschedule. Ms. Klisch was requested to elaborate on the new title for the March 27, 2007, hearing scheduled for 10:00 a.m. #2 which should read as follows: "Continued hearing to consider amending the MFS Resolution No. 80-420 and adopting associated documents to increase the Citywide traffic signal impact fee."

Councilmember Duncan stated he had reviewed the 11:00 a.m. item where the City Council was asked to adopt a resolution regarding National Fugitives Operation Program by the U.S. Immigration and Customs Enforcement and noted there were two areas in the resolution which were flawed, stating as a result the item should be pulled from the agenda. He noted the statement in which the Mayor and City Council disapprove and condemn the unlawful enforcement actions of the Government of the United States stressing there had been no findings provided by anybody related to the lawful or unlawful nature of their actions. Councilmember Duncan advised the direction to the City Attorney to examine all legal options and pursue filing a lawsuit should be discussed in closed session.

A motion to remove the 11:00 a.m. item was acted upon after brief discussion.

City Manager Souza requested Council provide the opportunity for Mayor Autry to address Council's concerns at 11:00 a.m. rather than remove the item from the agenda and if Council was still uncomfortable at that time, Council could then take appropriate action. Councilmember Dages stated it would show a lack of respect to remove the item and stressed the Mayor did have a right to come before the Council with Councilmember Sterling concurring.

A motion of Councilmember Duncan, seconded by Councilmember Calhoun, to remove the 11:00 a.m. item from the agenda failed, by the following vote:

Ayes :	Calhoun, Duncan,, Westerlund
Noes :	Dages, Sterling, Xiong, Perea
Absent :	None

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the **AGENDA** hereby approved, as amended, by the following vote:

Ayes :	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes :	None
Absent :	None

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ADOPT CONSENT CALENDAR:

(1-A) RESOLUTION NO. 2007-96 - OF INTENTION TO ANNEX FINAL TRACT NO. 5482 AS ANNEXATION NO. 16 TO CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 11, AND SETTING THE PUBLIC HEARING FOR APRIL 10, 2007, AT 10:00 A.M. (*PROPERTY LOCATED IN DISTRICT 5*) – PUBLIC WORKS DEPARTMENT

(1-B) RESOLUTION NO. 2007-97 – APPROVE THE REALLOCATION OF \$20,000 WITHIN THE PEDESTRIAN AND BICYCLE FACILITY FUND CAPITAL PROJECTS FOR BICYCLE PUBLIC SERVICE ANNOUNCEMENTS – PUBLIC WORKS DEPARTMENT

(1-C) * RESOLUTION NO. 2007-98 – 11TH AMENDMENT TO PAR NO. 2006-254 ADDING ONE STAFF ASSISTANT POSITION – PERSONNEL SERVICES DEPARTMENT

1.* RESOLUTION NO. 2007-99 – 62ND AMENDMENT TO AAR NO. 2006-253 APPROPRIATING \$13,700 IN THE HUMAN RESOURCES MANAGEMENT ISF FUND TO PROVIDE FUNDING FOR ONE STAFF ASSISTANT POSITION (*REQUIRES 5 AFFIRMATIVE VOTES*)

(1-D) RESOLUTION NO. 2007-100 – APPROVE NOTICE OF EXEMPTION AUTHORIZING APPLICATION TO THE CALIFORNIA DEPARTMENT OF HEALTH SERVICES FOR PROPOSITION 50 GRANT FUNDS FOR A MEMBRANE BIOFILM REACTOR DEMONSTRATION PROJECT THROUGH THE WATER SECURITY, CLEAN DRINKING WATER, COASTAL AND BEACH PROTECTION ACT OF 2002 AT CITY OF FRESNO WELL SITE 180-2, AUTHORIZE THE DIRECTOR OF PUBLIC UTILITIES OR HIS DESIGNEE TO EXECUTE ALL NECESSARY DOCUMENTS – DEPARTMENT OF PUBLIC UTILITIES

(1-E) RESOLUTION NO. 2007-101 – APPROVE THE SUMMARY VACATION OF A PUMPING PLANT AND EQUIPMENT EASEMENT ON THE SOUTH SIDE OF BULLARD AVENUE, EAST OF BLACKSTONE AVENUE IN THE TARGET PARKING LOT (*PROPERTY LOCATED IN DISTRICT 6*) – PUBLIC WORKS DEPARTMENT

(1-F)* RESOLUTION NO. 2007-102 – APPROVE MASTER AGREEMENT FOR STATE FUNDED LOCAL TRANSPORTATION PROJECTS BETWEEN THE CITY OF FRESNO AND THE STATE OF CALIFORNIA, ACTING THROUGH ITS DEPARTMENT OF TRANSPORTATION (CALTRANS) AND AUTHORIZE EXECUTION OF DOCUMENTS – PUBLIC WORKS DEPARTMENT

(1-H) * RECOMMEND CONDITIONAL APPROVAL OF HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS FOR \$2.6 MILLION TO SADI LLC FOR CONSTRUCTION OF PHASE II OF THE TANAGER SPRINGS APARTMENTS, AN 80-UNIT AFFORDABLE MULTIFAMILY HOUSING DEVELOPMENT, LOCATED ON THE SOUTHEAST CORNER OF CALIFORNIA AND MAPLE AVENUES – PLANNING AND DEVELOPMENT DEPARTMENT

(1-I) * RESOLUTION NO. 2007-103 – OF PUBLIC USE AND ACCEPTANCE FOR CONDITIONAL APPROVAL OF PURCHASE OF FIVE VACANT PARCELS (2.3 NET ACRES) LOCATED IN SOUTHWEST FRESNO (HUGHES-WEST DIAGONAL), UTILIZING \$364,500 IN HOME PROGRAM FUNDS FOR THE DEVELOPMENT OF MIXED INCOME SINGLE-FAMILY HOUSING – PLANNING AND DEVELOPMENT DEPARTMENT

(1-J) *APPROVE REQUIREMENTS CONTRACT FOR BUS BRAKE KITS AND PARTS; \$19,636.82 TO FLEETPRIDE OF FRESNO FOR SECTION I DRUMS; \$11,910.81 TO NEW FLYER INDUSTRIES OF CANADA, FOR SECTION II HARDWARE AND SECTION VII MAN BRAKE PARTS; \$12,294.80 TO DAMILER CHRYSLER COMMERCIAL BUSES NORTH AMERICA OF ORISKANY, NY FOR SECTION III BEARINGSAND \$84,759.22 TO TRUCK TRAILER TRANSIT OF DETROIT, MI., SECTION IV CAMSHAFTS AND SLACK ADJUSTERS, SECTION V BRAKE CHAMBERS AND SECTION VI BRAKE KITS – DEPT. OF TRANSPORTATION/FRESNO AREA EXPRESS

On motion of Councilmember Dages, seconded by Councilmember Westerlund, duly carried, **RESOLVED**, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes : None
Absent : None

(9:00 A.M.) PUBLIC COMMENT PERIOD - UNSCHEDULED COMMUNICATION:

Tony Farmer, 1130 W. Freemont Avenue, stated he had a Fresno County Grand Jury complaint he was going to file due to his home going into foreclosure this Friday, stressed City staff did nothing with previous claims he had filed and would be filing a lawsuit due to there being no resolution to his situation.

BREAK – 9:06 A.M. – 9:15 A.M.

(9:15 A.M.”A”) PRESENTATION OF OPERATIONAL AND FINANCIAL AUDITS OF THE CONVENTION AND VISITORS BUREAU – COUNCILMEMBER CALHOUN

Councilmember Calhoun stated on January 9, 2007, he had brought the agenda item to Council to request the audit, stressing the importance of receiving some satisfaction the Bureau was functioning well before the City made the next quarterly payment. Councilmember Calhoun stated the financial audit pointed out many issues of concern including the arrest of an individual for the alleged misuse of funds, the future of the Convention and Visitors Bureau (CVB), stating, for the record, if he had known earlier about the results of the financial audit he would not have allowed them to continue in the same manner and stressed there was a lack of leadership. He continued and reviewed several recommendations in the audit and stressed concern with the Convention and Visitors Bureau not being a member of the Industry Standards for Organizations, the National Organization of Convention Bureaus; stressed he was not prepared to provide any more funding until his concerns had been addressed and noted the importance of a plan being established for the Bureau.

Bill Overfelt, General Manager, SMG, stated by the second day of SMG becoming aware of the financial problem, the Executive Board put in multi layers of financial controls, hired a Certified Public Accountant to perform all the bookkeeping procedures, and currently financial controls were being created which would be adopted by the Board. **(2-0)** Mr. Overfelt stated the operational audit was accepted and agreed upon by the Boardmembers and had received an action plan to address and implement all the recommendations outlined in the operational plan.

Jim Pardini, President of the Board of Directors for the CVB, stated the Bureau has been in business for 30 years and had reached its pinnacle every year and reviewed the need for more hotels in downtown in order to bring more business. Mr. Pardini

stated the Bureau served the entire City and have made many relationships with event planners and conventioners over the years, was moving forward, and was now following the operational audit.

Speaking to the issue was: Eric Cogdill, 2141 N. Parkway Drive, stated he owned a Best Western Hotel for 10 years and six years ago decided to leave the CVB because of the problems he saw at that time but did rejoin the CVB due to his confidence being restored.

Councilmember Dages stated the hotel tax which was taken away during budget was suppose to support the Bureau. The Bureau had been dealing with the same amount of money for over ten years, stating the Bureau had done more than less and stressed the importance of the City's continued support in order for the CVB to perform their job.

Councilmember Sterling stated other organizations who ran on lean budgets had devastating results, citing the Chaffee Zoo and Measure "E" as an example. She expressed concern with the report, stating her concerns were answered and now the funding needed to be increased in order to move forward and noted the need for a Master Plan and financial tools. She questioned if the funding would be released for the April 1, 2007 payment with City Manager Souza stating the funds would be released to SMG, as the trustee. Councilmember Sterling requested she be kept informed of the progress of the Bureau.

Councilmember Duncan stressed the importance of SMG overseeing the Bureau, advised Council had a strong responsibility in making sure the Bureau had clear direction in functioning properly when using taxpayer dollars, and requested looking into an alternative to the current way the Bureau was performing along with the need to look into a basic requirements policy and elaborated.

Councilmember Westerlund stated this was blessing in disguise and now there is an opportunity to make the changes to make the Bureau more effective. He stated the Council had a responsibility to get the most out of taxpayer dollars, and stressed concern with the lack of financial and administrative issues dating back to February of 2006, in which nothing had been done to correct the situation. He reviewed the recent arrest of an employee who took money from the CVB and expressed concern with why the Director did not take immediate action at that time, with response by Mr. Pardini.

Councilmember Westerlund stated the lapse of time before any action was taken was appalling and reiterated the audit showed deficiencies that needed to be addressed. Mr. Overfelt reviewed several recommendations that would be included in the Memorandum of Understanding (MOU). Brief discussion ensued regarding Boardmember term limits, new membership advertising, and fund-raising. Councilmember Westerlund stated he had seen several non-profit organizations raise money to generate their own growth and felt CVB needed to get senior management to run the organization and bring the standards up to 2007 in order to move forward.

Mr. Souza stated there had been a concern with CVB since 2002, stating the problem was a "systems issue" where there had been a decrease in membership due to a lack of confidence from the City as well as the community in what was happening in the organization. He stated this was the time to address the issues, noting SMG had been chosen to oversee the contract with CVB and emphasized the importance of the need for a different structural bureau. Councilmember Sterling questioned whether the Sports Council and RJI were integrating services with CVB with Mr. Overfelt responding. She recommended the organizations be cross-trained for a better opportunity to serve the community.

(3-0) President Perea thanked Mr. Pardini for bringing the Bureau a long way, stating there was now an opportunity to make a change to deliver better services, noting hopefully the confidence would be restored and possibly the City would increase the funding to assist the Bureau. No action taken.

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(9:15 A.M. "B") MODIFY ADMINISTRATOR OF SMALL FARMER EMERGENCY BUSINESS LOAN PROGRAM FOR SMALL FARMERS WHO LIVE IN THE CITY OF FRESNO AND SUFFERED DAMAGE TO THEIR FARM DURING THE RECENT FREEZE – COUNCILMEMBERS XIONG AND DUNCAN

Acting President Xiong briefly reviewed the above item, noting the modification was only technical to indicate a change in the Administrator. Councilmember Duncan noted the change was a positive one and would strengthen the program.

On motion of Acting President Xiong, seconded by Councilmember Duncan, duly carried, RESOLVED, staff authorized to negotiate and execute an agreement with the County of Fresno Economic Opportunity Commission to administer the Small Farmers Emergency Loan Program, by the following vote:

Ayes :	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes :	None
Absent :	None

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(9:45 A.M.) HEARING TO CONSIDER APPROVAL OF AN APPEAL TO ARBORIST’S RECOMMENDATION TO NOT REMOVE A SYCAMORE TREE IN FRONT OF THE PROPERTY OF RAY AND BETTYE SULLIVAN, LOCATED AT 1636 N. PACIFIC AVE. (PROPERTY LOCATED IN DISTRICT 1)

President Perea announced the time had arrived to consider the issue and opened the hearing.

A motion to remove the sycamore tree was acted upon after discussion.

Speaking to the issue were: Sharon Kelly, Project Director of Tree Fresno, 776 E. Shaw Avenue, spoke in favor of preserving the tree, stating the referenced mature tree was approximately 40 feet tall and assisted in providing air quality, moderated temperatures, reduced storm water run-off and increased property values in the area. Ms. Kelly expressed concern that the removal of the tree would begin the process of many residents asking for tree removal simply because the resident did not like the tree; with Jan Fortune, 4649 N. Wilson, concurring, noting a mature tree took approximately 40 to 60 years to grow 40 feet tall.

Mr. Sullivan, 1636 N. Pacific Avenue, read several on-going problems he had dealt with relating to the sycamore tree.

Upon call, no one else wished to be heard and President Perea closed the hearing.

Councilmember Calhoun stated this tree was listed as a nuisance tree and expressed concern with removal of the mature tree stressing the City Council was the guardian of the strip and the tree and it should not be removed on the basis of being a nuisance.

Councilmember Sterling stated this was an important problem in District 3 where there was poor infrastructure and poor areas, and by the removal of a tree had made some people feel better due to health issues. She stated she was in support of the removal of the tree, noting the majority of the neighborhood was not present to speak on behalf of preserving the tree.

Councilmember Westerlund expressed concern with the Council discussing the removal of one tree, stating his appreciation of Mr. Sullivan’s concern, advised as policy makers for the City, he could not believe the discussion was taking place, adding he would not support the removal of the tree. He noted a policy should be in place as to what information needed to be provided to Council if a tree removal appeal came before the Council again.

Public Works Manager Adams addressed several concerns of Mr. Sullivan, stating, staff was concerned with the health of the property owners and noted the tree did not meet any of the four criteria to approve removal. Ms. Adams stated the Public Works Department received numerous telephone calls per day regarding removal of nuisance trees and expressed concern with future requests if the subject sycamore tree was removed.

Acting President Xiong stated the initial call Mr. Sullivan made regarding the tree was in the year 2000, noting this was a long process where there was persistence on the part of Mr. Sullivan, stated he had been to the resident’s property and had seen the damage done to the sidewalk, noting if the roots did grow back there was the possibility of revisiting the issue down the road. He stated the resident had a right to have the tree removed and requested another tree be planted.

On motion of Acting President Xiong, seconded by Councilmember Duncan, duly carried, **RESOLVED**, to overturn the appeal of the City of Fresno’s decision not to remove a sycamore tree located at 1636 N. Pacific Avenue hereby upheld, and staff directed to replace the tree with a new one, by the following vote:

Ayes :	Dages, Duncan, Sterling, Xiong, Perea
Noes :	Calhoun, Westerlund
Absent :	None

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(10:00 A.M.) CONTINUED HEARING TO ANNEX FINAL TRACT NO. 5312 TO THE CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 134 (PROPERTY LOCATED IN DISTRICT 4) – PUBLIC WORKS DEPT.

A. RESOLUTION NO. 2007 -104 - ANNEXING TERRITORY TO COMMUNITY FACILITIES DISTRICT NO. 2 AND AUTHORIZING THE LEVY OF A SPECIAL TAX

B. RESOLUTION NO. 2007-105 - CALLING SPECIAL MAILED-BALLOT ELECTION

C. RESOLUTION NO. 2007 – 106 - DECLARING ELECTION RESULTS

D. *BILL NO. B-27 - ORDINANCE NO. 2007 – 26 - LEVYING A SPECIAL TAX FOR THE PROPERTY TAX YEAR 2006-2007 AND FUTURE TAX YEARS WITHIN AND RELATING TO COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 134

President Perea announced the time had arrived to consider the issue and opened the hearing. Chief Engineering Technician Witzel advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of Councilmember Westerlund, seconded by Acting President Xiong, duly carried, RESOLVED, the above entitled Resolution Nos. 2007-104, 2007-106, 2007-106 hereby adopted, and Bill No. B-27 adopted as Ordinance No. 2007-26 by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	None

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(10:15 A.M.) HEARING REGARDING EMINENT DOMAIN, PROPERTY LOCATED AT KINGS CANYON AND CHESTNUT AVENUES. PUBLIC HEARING TO CONSIDER A RESOLUTION OF PUBLIC USE AND NECESSITY FOR ACQUISITION OF A PERMANENT EASEMENT AND RIGHT OF WAY FOR PUBLIC STREET PURPOSES AND TEMPORARY CONSTRUCTION EASEMENT FROM THE FOLLOWING PARCELS OF REAL PROPERTY LOCATED AT THE INTERSECTION OF KINGS CANYON AND CHESTNUT IN THE CITY OF FRESNO: 461-304-37S OWNED BY PASQUALE AND CARMELA DESANTIS: 463-222-1 OWNED BY DAVID MASSRY: 463-222-21 OWNED BY ROSALIE MORTON AND AILEEN LEAVITT: 470-092-34 OWNED BY MULHOLLAND LAND COMPANY AND 472-030-72 OWNED BY RALPHS GROCERY COMPANY (*REQUIRES 5 AFFIRMATIVE VOTES*) (*PROPERTIES LOCATED IN DISTRICT 5*) – PUBLIC WORKS DEPARTMENT

A * RESOLUTION NO. 2007-107 - THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE AND AUTHORIZE EMINENT DOMAIN FOR ACQUISITION OF PERMANENT EASEMENTS AND RIGHTS OF WAY FOR PUBLIC STREET PURPOSES AND TEMPORARY CONSTRUCTION EASEMENTS FROM REAL PROPERTY LOCATED AT THE INTERSECTION OF KINGS CANYON AND CHESTNUT IN THE CITY OF FRESNO: 461-304-37S; 463-222-17; 463-222-21; 470-092-34 AND 472-030-72

President Perea announced the time had arrived to consider the issue and opened the hearing. Supervising Real Estate Agent Balch gave a brief overview of the staff report and requested Council approve the above entitled resolution.

Lee Stephenson, 2344 Tulare Street, #300, representing owners of the property on the northwest corner of Kings Canyon and Chestnut Avenues, reviewed Exhibit B, Parcel 1, stating the owners supported the improvement of the intersection for traffic flow purposes, stating the exhibit indicated a zig-zag take-line, and the property owners requested Council amend the map to include a straight line-take that would be parallel to the existing Kings Canyon curb line which would increase the property by approximately 150 feet.

Tim Thompson, McCormick, Barstow Law Firm, 5 Riverpark Place East, representing Rosalie Morton and Aileen Leavitt, stated the home owners objected to the way the project was planned due to an easement being taken and the continued liability over the property.

Upon call, no one else wished to be heard and President Perea closed the hearing.

Councilmember Dages stated he was aware of the concerns and questioned why the City could not make it a straight line take with Mr. Balch responding.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2007-107 hereby adopted, subject to acquiring approximately an additional 150 square feet from the parcel identified on Exhibit B, Parcel 1 in order to make a straight line take and provide the additional funding of approximately \$5000.00, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	None

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(10:30 A.M.) UPDATE ON ACTIVITIES AND PROGRESS OF THE FRESNO COUNTY ECONOMIC DEVELOPMENT CORPORATION BY STEVE GEIL, INTERIM EXECUTIVE DIRECTOR – COUNCILMEMBER DUNCAN

Steve Geil, Fresno County Economic Development Corporation (EDC) thanked Council for the opportunity to update the City Council and recommended providing the City Council with an update every six months. **(4-0)** Mr. Geil reviewed several issues including hiring a grant writer, stating EDC has applied for grants in the amount of over \$400 million and were waiting for the results; had tripled the size of the statistical data report, working with the Economic Development Department and the Redevelopment Agency very closely, noting it had made a tremendous difference; advised of the update of the strategic plan; had improved the budget process; improved public awareness of what the EDC did; reviewed the 30 qualified leads for companies relocating to the area, noting 19 site were visited where EDC

had taken companies on tours of the Fresno area; reviewed trade shows resulting in 342 coming through the booth, advising 5 companies had purchased sites in Fresno and 3 purchases were pending. Mr. Geil reviewed the Ameri-Vista program for college students and the real estate forecast. He also noted an alternative energy company recently established in Sanger and plans for another one in the Parlier area, advising these companies have an economic impact on the City of Fresno.

Councilmember Duncan stated he had been a member of the EDC when the previous director was there and had seen major improvements and commended EDC for working well with the Economic Development Dept. Councilmember Duncan stressed the importance of the grant writer for obtaining funding to improve infrastructure which in turn would bring more companies to the City with Councilmember Westerlund concurring. Councilmember Westerlund commended EDC for finding solutions to problems. Mr. Geil noted how the EDC was currently trying to get industrial property entitlements prepared in advance in order for companies to move to Fresno to build on a shovel-ready site. President Perea stated he has heard nothing but positive remarks about EDC and noted their success was also the City's success. No action taken or required.

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(11:00 A.M.#1) RESOLUTION – OPPOSING IMMIGRATION RAIDS CONDUCTED BY THE UNITED STATES GOVERNMENT AND DIRECTING THE CITY ATTORNEY TO EXAMINE ALL LEGAL OPTIONS AND TO PURSUE FILING OF A LAW SUIT TO INCLUDE ANY AND ALL CAUSES OF ACTION RELATED TO THE IMMIGRATION RAIDS IN MENDOTA, CALIFORNIA – MAYOR AUTRY

Mayor Autry read a letter on file in the Office of the City Clerk, stating there was a clear violation of how the law was being applied, noting the issue should be addressed with poise and common sense instead of being addressed as “return to sender policy.” He reviewed the full mission of the “return to sender” policy and how the targeted sweeps were determined, the policy dealing with young children during the raids, the use of deadly force stated the Government would not divulge any information. Mayor Autry stressed the importance of sending a message to the Federal Government that the City of Fresno supported the need for immigration reform that would be equal and fair.

Robert Silva, Mayor of Mendota, stated adoption of the resolution would inform the Federal Government the law needed to be enforced in a peaceful manner where the children and their families were not separated and stressed his concern with the undetermined amount of people taken away from the community. Mr. Mendoza stated although the community had a population of 9,000, the City of Fresno would benefit from the support of the resolution. Also speaking to the issue was Victor Lopez, Mayor of Orange Cove, who reviewed his family background, reviewed his experience of being invited by President Clinton to the House of Soldiers where 8 Mexican soldiers were to receive the highest medal of bravery in the armed forces and instead requested having their citizenship.

Debbie Reyes, 1055 N. Van Ness, spoke in support of the resolution, stating the American Friends Services Committee had placed a national moratorium on immigrations raids and detentions, noting this type of raid was in violation of human rights and dignity and recommended setting up a fund for the children who were affected by this action. **(5-0)** Charles McNally, 370 N. Fresno, spoke in support; and Myrna Martinez, 6059 N. Colonial, spoke in support of providing funding for the involved children and requested Council approve the resolution.

Councilmember Calhoun stated he wanted the public to know he had to leave the meeting at 12 noon in order to teach school and in order to allow his participation recess at this time and reconvene at 2:00 p.m. At the hour of 12:00 p.m. Councilmember Calhoun left the meeting.

Continuing to speak in support of the resolution was Pastor Franklin, who stated this was a comprehensive problem and advised this was an opportunity to make a statement that we care about the people who live within our borders adding he felt supporting the resolution would send a message to the Federal Government.

Chief of Staff White stated the Mayor's Office had received letters in support of the resolution from the City of San Joaquin, City of Sanger and Alex Correa, Fresno City Employees Association (FCEA).

A motion made by Councilmember Duncan, seconded by Councilmember Westerlund to continue the above listed item to 2:00 p.m. to allow Councilmember Calhoun to participate failed, by the following vote:

Ayes :	Duncan, Westerlund, Perea
Noes :	Dages, Sterling, Xiong
Absent :	Calhoun

Councilmember Sterling expressed concern with few people in attendance to discuss the matter and noted as an African American woman she had been faced with challenges on various opinions and issues and commended various ethnic communities for the challenges

they had faced. She commended Mayor Autry for addressing the issue, stating the County of Fresno should have taken a stand on such an important issue, noting the importance of compassion for the people involved, and noted her support for the Food Bank and food drive because people face challenges and needed assistance.

A motion by Councilmember Sterling, seconded by President Perea, to adopt the resolution and direct staff to proceed with scheduling closed session for further discussion was acted upon after discussion.

Councilmember Duncan stated he had tried to remove the item from the agenda earlier in the meeting due to inappropriate comments; stated the resolution indicated the Mayor and Council should condemn the unlawful enforcement actions of the Government of the United States, and questioned what unlawful acts were taking place. City Attorney Sanchez stated the way the children were separated from their families was a result of the lack of clear directions in terms of the care and custody of the children and could be challenged. Councilmember Duncan reviewed the history of the program, stating the intent was to go after fugitive aliens and reviewed the results of the program, noting the U.S. Immigration and Customs Enforcement (ICE) implemented a program called the Most Wanted List and elaborated; expressed his concern regarding filing a lawsuit with the Federal Government in an area he felt was a “no win effort” and which would be using taxpayers money, and advised those who wish to pursue the issue to do it on their own.

Acting President Xiong stated after the September 11 tragedy there was an effort passed making an interpretation of labeling several groups as terrorists where the Hmong community was included, stressing with their commitments, sacrifices and the lives lost for this country the fact they could be considered a terrorist was disheartening. He stressed families are afraid due to their legal status being in jeopardy, noting the issue impacts families, the economy and the education of the children and stated he supported the matter on a local policy level. Acting President Xiong stated he supported the resolution with the exception of the lawsuit and legal obligations.

Councilmember Westerlund reviewed the legal perspective of the issue, stating the U.S. Attorney would get the Court to remove the City’s lawsuit due to the raid occurring in Mendota, stressing he had no facts of illegal acts. He reviewed other similar raids that took place across the country and stressed the importance of a comprehensive reform.

City Manager Souza clarified the item was placed on the agenda in the same process as other agenda items; recommended Acting President Xiong make a motion to amend the current motion on the floor to include in lieu of “pursue filing of a lawsuit,” it would be replaced with “the City Attorney to examine all legal options and to report to the Mayor and City Council any and all causes of actions available pertaining to the immigration raids,” with Acting President Xiong and Councilmember Sterling concurring.

Mayor Autry reiterated the Government created a flawed policy, adding the amended motion would still send a strong message, noting the importance of the Federal Government to review the policy. Councilmember Sterling reiterated her motion was to include a discussion in closed session, noting she would accept the amendment to her original motion.

Councilmember Dages stressed the leaders of Mendota need to assist people in becoming citizens, stating the people were given a deportation order issued by a judge and expressed concern with using the City of Fresno taxpayers’ money was wrong.

(6-0) President Perea expressed concern with what type of message the Mayor and City Council was sending to people when the parties were divided on the issue. Mayor Autry stated he was proud of the 3-3 vote because it was the beginning of a true, comprehensive immigration reform driven by compassion. President Perea stated due to the Federal Government’s actions, it had forced the local communities to move forward.

A motion of Councilmember Sterling, seconded by President Perea, to adopt the above entitled Resolution as amended to delete “pursue filing of a lawsuit,” and include the language “the City Attorney to examine all legal options and to report to the Mayor and City Council any and all causes of actions available to the immigration raids and the City Attorney directed to examine all legal options and to report any and all causes of action related to the immigration raids back to Council in closed session,” failed adoption by the following vote:

Ayes :	Sterling, Xiong, Perea
Noes :	Dages, Duncan, Westerlund
Absent :	Calhoun

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(11:00 A.M.#2) HEARING TO CONSIDER REZONE APPLICATION NO. R-06-65, AND ENVIRONMENTAL FINDINGS, FILED BY SEQUOIA-FRESNO JOINT VENTURE, PERTAINING TO 9.5 ACRES OF PROPERTY LOCATED NORTH OF THE NORTHEAST CORNER OF NORTH FIRST STREET AND EAST NEES AVENUE (PROPERTY LOCATED IN DISTRICT 6) – PLANNING AND DEVELOPMENT DEPARTMENT (CONTINUE TO 3:00 P.M.)

Continued as noted.

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LUNCH RECESS – 12:55 P.M. – 2:00 P.M. Councilmember Calhoun was present for the remainder of the meeting.

(2:00 P.M.#1) CONTESTED CONSENT CALENDAR:

(1-G) RECEIVE ANNUAL UPDATE OF PRIORITY RANKING LISTS FOR NEW TRAFFIC SIGNAL INSTALLATIONS, TRAFFIC SIGNAL LEFT TURN PHASING AND INTERSECTION TRAFFIC FLOW IMPROVEMENTS – PUBLIC WORKS DEPARTMENT

Councilmember Westerlund questioned the funding of the intersection traffic flow improvement 2007 priority list with Traffic Engineering Manager Mozier stating the ranking list was based on how much traffic congestion could be reduced with the widening of dual left turn lanes and the funding had come from Federal grants, noting the list is a guide for more critical areas.

On motion of Councilmember Westerlund, seconded by Councilmember Duncan, duly carried, RESOLVED, staff recommended to accept the updated City-wide priority ranking lists for new traffic signal installations, traffic signal left turn phasing and intersection traffic flow improvements hereby approved, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes : None
Absent : None

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(1-K) AUTHORIZE THE DIRECTOR OF TRANSPORTATION TO ENTER INTO AN AGREEMENT WITH TANAGER SPRINGS DEVELOPMENT TO EXTEND SERVICE ON ROUTE 33 AND EXECUTE ALL CONTRACT DOCUMENTS ON BEHALF OF THE CITY OF FRESNO – DEPARTMENT OF TRANSPORTATION/FRESNO AREA EXPRESS

1. *RESOLUTION NO. 2007-108 – 65TH AMENDMENT TO AAR NO. 2006-253 APPROPRIATING \$10,000 FOR COSTS RELATED TO THIS SERVICE (*REQUIRES 5 AFFIRMATIVE VOTES*)

Councilmember Dages questioned the new bus route hours being a very narrow time frame and expressed concern with the affordable housing apartment complex residents not having transportation. Director of Transportation Hamm stated it would take a while for the 180 units to be developed and the service was focused on commuter service to take people to and from work and felt the service should start incrementally and increase as the development occurred. Extensive discussion ensued regarding a contribution from the developer for the bus service and the timing of the funding. Scott Richards, Squire Properties, reviewed the process of applying for a 9% tax credits, stated one of the criteria was transportation, and service must be in place at the time of application.

A motion to approve the above listed item was acted upon after discussion.

Councilmember Calhoun expressed concern with his request to extend City bus routes in District 2, noting there was senior citizen/low income route in District 2 that did not have service and requested a comprehensive review of the bus service, stating a bus route was being put in an area where an apartment complex had not even begun construction. Councilmember Calhoun advised he would be looking into this type of service when a new development occurs in his district. City Manager Souza stated the bus route was being funded by a third party. Extensive discussion ensued regarding the funding of bus routes for different projects and the 9% tax credit the developer applied for.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2007-108 hereby adopted; the Department of Transportation/Fresno Area Express authorized to enter into an agreement with Tanager Springs Development to extend service on Route 33; the Director of Transportation hereby authorized to execute all contract documents on behalf of the City to secure the funding required from the Development SADI, LLC, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes : None
Absent : None

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(1-L) AMENDING THE FRESNO MUNICIPAL CODE REQUIRING THE INSTALLATION OF PHOTO LUMINESCENT EXIT PATH MARKING FOR BUILDINGS THREE (3) STORIES OR MORE – FIRE DEPARTMENT

1. RESOLUTION NO. 2007-109 – CONSIDER AND ADOPT FINDINGS REGARDING LOCAL CLIMATIC, ECOLOGICAL OR TOPOGRAPHICAL CONDITIONS THAT SUPPORT AMENDING THE UNIFORM FIRE CODE AND UNIFORM BUILDING CODE TO REQUIRE THE INSTALLATION OF PHOTO-LUMINESCENT EXIT PATH MARKING FOR BUILDINGS WITH THREE (3) OR MORE STORIES

2. * BILL NO. B-13 – ORDINANCE NO. 2007-27 (INTRO. 2/27/2007) – AMENDING THE FRESNO MUNICIPAL CODE, REQUIRING THE INSTALLATION OF PHOTO-LUMINESCENT EXIT PATH MARKING FOR BUILDINGS THREE (3) STORIES OR MORE

Councilmember Westerlund questioned whether the City had the findings due to this project differing from the Uniform Building Code requirements regarding installation of the photo luminescent exit path markings consistent with the local climatic, geological or topographical conditions. He noted he had reviewed the material provided including studies of the World Trade Center collapse and the exits of the building at that time, stating the finding were warranted and were the basis for his support. At the hour of 2:28 p.m. Councilmember Sterling left the meeting briefly. City Attorney Sanchez stated the material included a resolution in addition to the ordinance which contained an exhibit that laid out the specific findings related to the justification. Councilmember Westerlund stated the California Uniform Building Code should be changed to include the photo luminescent exit path markings.

On motion of Councilmember Westerlund, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2007-109 hereby adopted; and Bill No. B-13 adopted as Ordinance No. 2007-27, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	Sterling

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(2:00 P.M.#2) RESOLUTION NO. 2007-110- ESTABLISHING THE FINANCE AND AUDIT COMMITTEE – CITY ATTORNEY’S OFFICE

At the hour of 2:30 p.m. Councilmember Sterling returned to the meeting. City Attorney Sanchez gave a brief presentation. Councilmember Calhoun expressed concern with the committee consisting of three Councilmembers on budget related issues, stating the majority of the Councilmembers would be on the sidelines and advised of his concerns regarding the way the resolution was written. He questioned whether the meeting would be open to the public and if Council would be informed of all the information discussed and felt the three members would be the leaders of the Council. Mr. Sanchez stated the committee would follow the Brown Act by holding public meetings posted in advance, adding the Committee would only review audits. Mr Sanchez advised the “Finance” portion of the committee may be too broad of a word; stated Council Assistants would be free to participate, noting a Councilmember could not attend beyond the subcommittee members because there might be a violation of the Brown Act.

(7-0) Councilmember Westerlund stated he did not intend for the committee to be involved in the budget cycle and requested language be included to reflect that, advising the committee would review issues such as the CAFR report to better understand the data and envisioned the subcommittee would report their findings to Council for discussion and review. He stated the subcommittee would not hinder the City Council in receiving information, noting the difference between the Finance and Audit Committee was it was permanent compared to the budget committee which was on an ad hoc basis; and noted the difficulty of reviewing all the information Council received at the present time.

A motion to approve the inclusion of a clause excluding discussions relating to the budget and the budget cycle was acted upon after discussion.

Councilmember Dages felt having three Councilmembers on a committee would be too political, stressed the City had a Finance Department and he felt the committee would oversee the department; questioned the hiring of a Certified Public Accountant with Mr. Sanchez responding. Councilmember Dages questioned the use of the Controller’s time as the secretary to the Subcommittee, stating he was uncomfortable with the meetings not being open to the public. Mr. Sanchez reiterated the meetings would be open and advised the Council Assistant, on behalf of the Councilmember, would be in attendance and the reason another Councilmember could not attend the meeting was there would then be a quorum of the Council and it would violate the Brown Act. Brief discussion ensued regarding briefing Council on meeting results, with City Manager Souza stating minutes would be provided after every meeting.

On motion of Councilmember Westerlund, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Resolution No. 2007-110 hereby adopted as amended to include a clause excluding discussions relating to the budget and the budget cycle, by the following vote:

Ayes	:	Calhoun, Duncan, Westerlund, Perea
Noes	:	Dages, Sterling, Xiong
Absent	:	None

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(3:00 P.M.) CONTINUED HEARING TO CONSIDER REZONE APPLICATION NO. R-06-65, AND ENVIRONMENTAL FINDINGS, FILED BY SEQUOIA-FRESNO JOINT VENTURE, PERTAINING TO 9.5 ACRES OF PROPERTY LOCATED NORTH OF THE NORTHEAST CORNER OF N. FIRST STREET AND E. NEES AVENUE (***PROPERTY LOCATED IN DISTRICT 6***) – PLANNING AND DEVELOPMENT DEPARTMENT

1. CONSIDER AND ADOPT ENVIRONMENTAL ASSESSMENT NO. R-06-65/TPM-2006-44/C-06-269, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO MEIR 10130 FOR THE 2025 FRESNO GENERAL PLAN

2. BILL NO. B-28 – ORDINANCE NO. 2007-28 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM THE AE-5/UGM (*EXCLUSIVE FIVE ACRE AGRICULTURAL/URBAN GROWTH MANAGEMENT*) ZONE DISTRICT TO THE C-P/UGM (*ADMINISTRATIVE AND PROFESSIONAL OFFICE/URBAN GROWTH MANAGEMENT*) ZONE DISTRICT

President Perea announced the time had arrived to consider the issue and opened the hearing. Planner Braun advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the finding for the above entitled E.A. hereby approved, and the above entitled Bill No. B-28 adopted as Ordinance No. 2007-28, subject to the condition of zoning incorporated in the Ordinance Bill, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	None

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(2:00 P.M.#3) CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - GOVERNMENT CODE SECTION 54956.9, SUBDIVISION (A)

1. CASE NAME: SEAN HOLGUIN V. MICHAEL MANUAL ZAMUDIO - TYPE OF CLAIM: WORKERS COMPENSATION

2. CASE NAME: RAUL RODRIGUEZ V. CITY OF FRESNO - TYPE OF CLAIM: WORKERS COMPENSATION

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - GOVERNMENT CODE SECTION 54956.9, SUBDIVISION (B)

1. CASE NAME: CITY OF FRESNO V. SHELL OIL COMPANY, ET AL

The City Council met in closed session in Room 2125 at the hour of 3:08 p.m. to consider the above matters and reconvened in regular session at 3:15 p.m. City Attorney Sanchez announced in the matter regarding the City of Fresno v. Shell Oil Company, et al. Council authorized staff to initiate litigation by a 7-0 vote.

(3:15 P.M.) REPORT AND PRESENTATION REGARDING HANDYRIDE

Director of Transportation Hamm gave a brief overview of the audit recently completed and introduced Roy Glavier, Consultant from Costa Mesa who put together the audit report. Mr. Hamm reviewed the findings and recommendations to include: 1. creation of a Paratransit Coordinator position; 2. reviewed facilities and the need to secure a leased facility with the goal of having a permanent facility for the operation; 3. fleet – replacement of the vehicles and sedans and adding 10 to 12 transit buses to the fleet reducing the use of taxis; 4. discussed eligibility by completing a recertification of all Handyride clients; 5. passenger fares bringing the Handyride fare to equal the fixed route fair of \$1.00 and eliminate the monthly pass in the Handyride program; 6. Service area boundaries and limit service areas; and 7. neighboring service to the City of Clovis and differentiate ADA required Paratransit services to minimize non-essential services.

Speaking to the issue were: Ed Eames, 3065 Wishon, Ed LaComb, 1815 E. Michigan Avenue, Rick Steitz, President of Amalgamated Transit Union, 1056 W. Fremont, Carol Casey, 1917 S. Chestnut Avenue #10-G, Barent Bethall, 1856 W. Santa Anna and Adam Ramier, Amalgamated Transit Union.

(8-0) Councilmember Calhoun stated he had a conversation with Mr. Hamm who pointed out what was wrong with the Handyride system, expressing disappointment because the audit indicated the City has done several things wrong and have been heavily subsidizing Handyride.

City Attorney Sanchez stated staff would review the audit to see if there was a need for a Request for Proposal (RFP). Mr. Hamm stated the audit was a benchmark and direction to move forward with a new RFP and recommendations. Councilmember Calhoun

recommended staff return with recommendations that dealt with the audit report because MV Transportation was not provided with the full information and requested staff give MV Transportation the first opportunity.

Extensive discussion ensued regarding the RFP process. Mr. Hamm responded to questions relating to the replacement of aging high mileage vehicles and essential trips to the City of Clovis. Councilmember Dages questioned when the RFP would be presented before Council with Mr. Hamm stating approximately early May, noting the City would not be included because they could not bid on their own service. Brief discussion ensued regarding MV Transportation.

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The City Council recessed at 4:16 p.m. and convened in joint session with the Redevelopment Agency.

(3:30 P.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

APPROVE AGENCY MINUTES OF FEBRUARY 27, 2007

On motion of Councilmember Dages, seconded by Councilmember Westerlund, duly carried, RESOLVED, the minutes of February 27, 2007, approved as submitted.

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(“A) APPROVE ACQUISITION OF THREE EASEMENTS ON THE WEST SIDE OF CEDAR AVENUE, SOUTH OF SHIELDS AVENUE (*COUNCIL AND AGENCY ACTION*) – PUBLIC WORKS DEPARTMENT

Senior Real Estate Agent Hansen briefly reviewed the staff report and requested approval.

On motion of Councilmember Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, the acquisition of three pedestrian easements on the west side of N. Cedar Avenue, south of E. Shield Avenue, from Thrifty Realty Company, and the Public Works Director authorized to sign the necessary documents on behalf of the City hereby approved, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	None

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The City Council met in closed session in Room 2125 at the hour of 4:19 p.m. to consider the above matters. (*Continued from earlier in the meeting*)

(2:00 P.M.#3) CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - GOVERNMENT CODE SECTION 54956.9, SUBDIVISION (A)

1. **CASE NAME:** CITY OF FRESNO V. RAPS FRESNO LLC, ET AL.
2. **CASE NAME:** CITY OF FRESNO V. PINEDALE PUBLIC UTILITY DISTRICT
3. **CASE NAME:** BUILDING INDUSTRY ASSOCIATION OF SAN JOAQUIN VALLEY V. CITY OF FRESNO

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - GOVERNMENT CODE SECTION 54956.9, SUBDIVISION (B)

1. **CASE NAME:** CITY OF FRESNO V. M.J. MENEFEER CONSTRUCTION, INC. AND GREAT AMERICAN INSURANCE COMPANY (*HERNDON AVENUE IMPROVEMENTS*)

Council reconvened in open session at the hour of 5:03 p.m. whereupon City Attorney Sanchez announced in the matter regarding the Building Industry Association of San Joaquin Valley v. City of Fresno, Council authorized staff to file an appeal by a 7-0 vote.

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ADJOURNMENT

There being no further business to bring before the City Council, the hour of 5:04 p.m. having arrived and hearing no objections, President Perea declared the meeting adjourned.

Approved on the _____ day of _____, 2007.

_____	ATTEST: _____
Henry T. Perea, Council President	Cindy Bruer, Deputy City Clerk

